

MMW

RECEIVED

IN THE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

JAN 31 2008

JAN 31 2008

MICHAEL W. DOBBINS

CLERK, U.S. DISTRICT COURT

ALLEN BENNETT, A-81422,
Petitioner,

2 of 2
Petitions

-vs-

Case No. _____

WARDEN DONALD A. HULICK
and DIRECTOR ROGER E. WALKER
JR.
Respondents.

08CV689
JUDGE LINDBERG
MAGISTRATE JUDGE DENLOW

PETITION FOR WRIT OF HABEAS CORPUS
(State Prisoner)

NOW COMES the Petitioner, Allen Bennett, (pro se) respectfully moves this Honorable Court for relief against the respondents for violations of his due process rights for decisions that affects the length of his commitment to custody ~~within~~ within the Illinois Department of Corrections relating to disciplinary proceedings for failure to provide him with an adequate notice or record written including a basis for disregarding exonerating evidence presented by him; arbitrarily subjecting him to disciplinary sanctions that was not supported by "some evidence" in the written record; failure to state the disposition of the charges the disciplinary action recommended and the reasons for recommending the disciplinary actions; and failure to review all the Adjustment Committee's disposition recommending that he lose goodtime credit, 730 ILCS 5(3-5-1) et seq. 20 Ill. Adm. Code 504.80 et seq.

STANDING FOR HABEAS CORPUS

Section 2254 requires that the Petitioner be in "custody". 28 U.S.C. 2254(a). See *Malong v. Cook*, 490 U.S. 488, 490-91, 109 S.Ct. 1923, 104 L.Ed.2d 540 (1989) (per curiam). In *Perrier v. Rodriguez*, 411 U.S. at 487-89, 93 S.Ct. 1827, the Supreme Court established that actions for the restoration of goodtime credit fall within the "core" of habeas corpus because they go directly to the constitutionality of the prisoner's confinement itself and seek either immediate release or a standard sentence length of confinement. See also *Walker v. O'Brien*, 216 F.3d 626, 633, (7th Cir. 2000) (adhering to circuit precedent that section 2254 is the correct vehicle for contesting loss of goodtime credit in prison disciplinary proceedings.)

Prisoners has a right under the Constitution receive procedural due process created by the state on the Due Process Clause itself to be protected ~~from arbitrary actions~~ from arbitrary actions by government interference with certain fundamental rights and liberty interest. *Sandin v. Conner*, 515 U.S. 472, 115 S.Ct. 2293, 132 L.Ed.2d 418 (1995) and *Wolf v. McDonnell*, 418 U.S. 539, 555-57, 94 S.Ct. 2963, 41 L.Ed.2d 935 (1974) state law could also create protected liberty interest. *Board of Regents v. Roth*, 408 U.S. 564, 576-77, 92 S.Ct. 2701, 33 L.Ed.2d 548 (1972). In *Washington v. Glucksberg*, 521 U.S. 702, 117 S.Ct. 2258, 138 L.Ed.2d 772, (1997) the Supreme Court has decided that the "Due process guarantees more than fair process and 'liberty' it protects including more than absence of physical restraint" and "provides heightened protection against government interference with certain fundamental rights and liberty interests."

Petitioner states that the respondents failed to afford him due process of law because both the investigative and disciplinary reports both prima facie failed to provide him with adequate

notice because the chargeable offenses are totally investigative without the Petitioner ever being fully advised of his rights by the investigation or the reporting employee of these reports, (See Exhibits B and E) Because the respondents has failed to advise Petitioner of his rights prior to his interview and investigation of the resulting charges, he was subject to these chargeable offenses based solely on his interview without being fully advised of his rights - resulting in a ~~and~~ denial of his due process of law, ~~and~~ ^{relating to} ~~and~~ loss of his goodtime credit.

FACTUAL ALLEGATIONS

1.) Petitioner Allen Bennett is a state prisoner serving a single charge for a non-violate offense in the Illinois Department of Corrections (IDOC). He is sentence to 15 years term custody. (See attached Exhibit A)

2.) Petitioner who is an African-American inmate was at the Pinckneyville Correctional Center (Pinckneyville Corr. Ctr.) at all times relevant to this action. (See Exhibit A 2 of 2)

3.) While at the Pinckneyville Corr. Ctr., Petitioner filed grievances using the inmate grievance procedures because there was widespread of a monopoly of ~~of~~ certain job assignments and programs denied to individuals of his race and other individual of color that was given to only Caucasian inmates.

4.) As a result, on 12-21-06, Petitioner was placed on the College Unit with a cellmate name "Lofton". Mr. Lofton was known to be aggressive towards his cellmate by all inmates and staff. One placing him in the cell with Petitioner was a guarantee conflict that would result in disciplinary actions.

5.) However, Petitioner made many requests to staff to remove Lofton from the cell or himself because Lofton was instigating a physical confrontation with him.

- 6.) Surprisingly and ~~under~~ under lockdown status of the entire prison at the time, staff decided to transfer Lofton to another cell. The following next day, inmate Agin was placed in the cell with Petitioner. Agin is a Caucasian inmate by race.
- 7.) On 1-23-07, Petitioner filed a grievance using the inmate grievance procedure because inmate Agin and him had a worse relationship than him and Lofton. (See Exhibit C 1 of 3)
- 8.) Specially, inmate Agin was openly using excuses to want to engage in a physical altercation with Petitioner [1] And Petitioner did not want any trouble.
- 9.) On 1-25-07, Petitioner received a response to his grievance denying him relief. (See Exhibit C 1 of 3)
- 10.) On that same night about 9:30 pm, inmate Agin took his medication which was distribute to him by the nursing staff in the cell.
- 11.) Afterwards, inmate Agin told Petitioner that he needs the lights off because he has just took his medication and wanted to go to sleep.
- 12.) Petitioner at the time was researching some legal matters and needed the light at the time to read his books on the matter.
- 13.) After a lengthy discussion about the lights being on, Petitioner gave in and decided to cut the lights off.
- 14.) As soon as Petitioner turned off the lights, Agin jump off his top bunk and begin to punch Petitioner with a sharp instrument in his hand.

[1] Inmate Agin was a highly violate individual who is incarcerated into the IDOC for Aggravated Battery on the Chief of Police and his officers in down state Illinois.

15.) As a result, Petitioner briefly retaliated and as a result both parties received injuries.

16.) Petitioner then activated the emergency button in ~~the~~ the cell for staff. No one responded.

17.) At that time, Agin began to panic indicating that he could get a lot of time in segregation and a case for stabbing Petitioner.

18.) Petitioner at that time felt sorry for Agin and decided not to speak to officials.

19.) The following day, Petitioner told Agin that his injuries is pretty bad and that he might need to see a Doctor. ~~Again~~ Agin, Agin began to panic and Petitioner allowed the matter to pass.

20.) However, on 1-28-07, Petitioner was determine to do something about his injuries. So he told Agin that when the come to bring his medication, it was time to do so.

21.) That morning both Petitioner and Agin expressed our injuries and indicated that we were fighting.

22.) Security staff took Agin out of the cell first to go to the Health care Unit. Petitioner was taken afterwards.

23.) While at the Health Care Unit, Petitioner never received any treatment by the health care staff. He was being interviewed at that location by Internal Affairs despite the fact that he was complaining mostly about his injuries.

24.) Internal Affairs never advised Petitioner of his rights at that interview. Nor was he ever advised of his rights at any other ~~interview~~ subsequent interview.

25.) After a short interview by Internal Affairs, Petitioner was ordered to leave and be escorted to segregation. He asked about his injuries and attention by medical staff, but was told by these officials that he needs to put in a sick call slip.

26.) Petitioner was then taken to the Reeking Unit Segregation where him and his cellmate were strip searched and property searched enroute to Unit R-5 which is a segregation building more than a 100 feet outside.

27.) After the searched, Petitioner was ordered to carry his personal property and Agin (cellmate) to R-5 in the cold weather with only a thin jump suit on, shorts and summer wear issued ~~shoes~~ shoes with a hole in the soles.

~~It~~ It should be noted that at all relevant times of this action, Petitioner was a 42 years of age 6'4", 220 lbs while Agin was probably 5'11" at 200 lbs ~~more~~ more bulky and at the age of 30 or so years of age.

28.) While in segregation, Petitioner was formally placed ~~under~~ under investigation for 301-Fighting and 630-Investigative Status. No indication on this report was given as to whether Petitioner was even advised of his constitutional rights. (See attached Exhibit B)

29.) Petitioner was after many attempts arbitrarily denied medical attention where his injuries had worsen.

30.) In arbitrarily denying Petitioner medical treatment, the respondents attempted to undermine him by submitting memorandum of his complaints to him by individual DON (Dean of Nurses) that were not actual employed at that Facility. (See Exhibit D)

31.) As a result, on 2-17-07, a disciplinary report was written by S. Sroka charging Petitioner with 102-Desancting

Only Person, 110-Impeding or interfering with an investigation, and 303-Giving False Information to an Employee. (See attached Exhibit E) No indication on this report was given as to whether Petitioner was advised of his Constitutional rights as a result of this alleged ~~interview~~ interview and investigation.

32.) Petitioner was later seen by the Adjustment Committee who found him guilty and recommended 6 months segregation, C-grade status, and goodtime ~~revocation~~ revocation [2]

33.) Petitioner states that both the investigative and disciplinary reports clearly failed to provide him ~~adequate~~ adequate notice because the chargeable offenses are totally an investigation without the Petitioner even being fully advised of his rights by the investigator or the reporting employee. (See Exhibit B and E)

34.) Petitioner states that under these circumstances, the respondents violated his rights under the due process clause which protects him against being charged with these offenses without being fully advised of his rights of these charges because these chargeable offenses are obviously stemming from alleged statement purporting given ~~to~~ to institute the charges without being advised of his constitutional rights.

35.) Petitioner also states that his due process rights were further violated by the respondents because they fail to include a basis for disregarding exonerating evidence presented by him nor took notice of the written report which highly suspected as written detailing the resulting investigation and conclusion that the fight was caused due to a conflict between both inmates regarding the lighting in the cell. The report clearly indicates that inmate Bennett

[2] The goodtime revocation was reduced to 2 months by the Director.

suggested that the lighting be turned off while inmate Agin suggested that it be kept on. It is hardly likely that inmate Agin would want the lighting on in the cell since he just received medication that makes him sleepy. (Exhibit E). The Adjustment Committee should have noted this matter along with Petitioner's grievance as exculpatory ~~and~~ evidence of a fraudulent investigation.


36.) In addition, the respondents clearly failed to state the actual disposition of the charges the disciplinary actions recommended and the reasons for recommending the disciplinary action; and failed to review all the Adjustment Committee's disposition recommending that he lose good time credit pursuant to 730 ILCS 5/3-5-1 et seq. 20 Ill. Adm. Code 504.80 et seq.

37.) Petitioner states that his procedural due process rights were denied because these disposition of the charges failed in the beginning to operate the disciplinary actions recommended and any reasons for the recommending disciplinary actions due to the respondents failure to actually ~~fully~~ fully advised him of his rights in which the charges ~~derive~~ derive from an investigation based solely on an interview without cautionary warnings of basic rights.

RELIEF

Wherefore, Petitioner respectfully requests that the Disciplinary Report dated ~~20~~ 2-17-07 be expunged and all rights and good time credit be restored and any other additional relief this Court deems to be just and proper.


Respectfully submitted


Allen Bennett - Petitioner

DECLARATION UNDER PENALTY OF PERJURY

Pursuant to 28 USC 1746, 18 USC 1621 or 735 ILCS 5/1-109, I declare, under penalty of perjury, that I am a named party in the above action, that I have read the above documents, and that the information contained therein is true and correct to the best of my knowledge.

DATE: 1-24-08
~~01-24-08~~

/s/ 
NAME: Allen Bennett
IDOC#: A-81422
Menard Correctional Center
P.O. BOX 74
Menard, IL 62259

AFFIDAVIT OF SERVICE

I, Allen Bennett, state that I served a copy of the document to which this affidavit is attached upon each party, or, if represented by counsel, upon the attorney of record for said party (ies) by enclosing the same in a sealed envelope plainly addressed as is disclosed by the pleadings of record herein and by depositing each of such envelopes in the box designated for United States mail at ~~Quincy Prison~~ Menard Correctional Center, ~~Quincy, Illinois~~ Menard, Illinois, together with the appropriate request to the prison official responsible to affix fully prepaid thereon, on this ~~21st~~ 30th day of ~~2008~~ January, 20 08.

Allen Bennett
Signature

VERIFICATION

I, Allen Bennett, the undersigned, certify and state that:

1. I am the (Petitioner/Respondent) in the above captioned legal matter.
2. I have read the foregoing application and have knowledge of its contents; and
3. Under penalties as provided by law pursuant to 735 ILCS 5/1-109, I certify that the statements set forth in the foregoing motion and this affidavit are true and correct except as to matters therein stated to be on information and belief, and as to such matters I certify that I believe the same to be true.

Allen Bennett
(Your signature)

Exhibit A

IN THE CIRCUIT COURT OF COOK COUNTY

OF THE STATE OF ILLINOIS) CASE NUMBER 00CR1581601
 V.) DATE OF BIRTH 12/12/59
 BENNETT) DATE OF ARREST 06/13/00
 IR NUMBER 0474723 SID NUMBER 018389580

 ORDER OF COMMITMENT AND SENTENCE TO
 ILLINOIS DEPARTMENT OF CORRECTIONS
 =====

The above named defendant having been adjudged guilty of the offense(s) enumerated below
 is sentenced to the Illinois Department of Corrections as follows:

Statutory Citation	Offense	Sentence	Class
5-5/4-103.2(A)(3)	POSS STOLEN VEHICLE > \$25,000	YRS. 015 MOS. 00	1
and said sentence shall run concurrent with count(s) _____		YRS. _____ MOS. _____	
said sentence shall run (concurrent with) (consecutive to) the sentence imposed on: _____		YRS. _____ MOS. _____	
said sentence shall run (concurrent with) (consecutive to) the sentence imposed on: _____		YRS. _____ MOS. _____	
said sentence shall run (concurrent with) (consecutive to) the sentence imposed on: _____		YRS. _____ MOS. _____	
said sentence shall run (concurrent with) (consecutive to) the sentence imposed on: _____		YRS. _____ MOS. _____	

Defendant having been convicted of a class _____ offense is sentenced as
 offender pursuant TO 730 ILCS 5/5-5-3(C)(8).

Defendant is sentenced to an extended term pursuant to 730 ILCS 5/5-8-2.

Court finds that the defendant is entitled to receive credit for time actually served
 for a total credit of 854 days as of the date of this order

FURTHER ORDERED that the above sentence(s) be concurrent with
 imposed in case number(s) _____
 consecutive to the sentence imposed under case number(s) _____

FURTHER ORDERED THAT _____

ORDERED that the Clerk provide the Sheriff of Cook County with a copy of this Order and that the Sheriff
 take the defendant into custody and deliver him/her to the Illinois Department of Corrections and that the Department take
 custody and confine him/her in a manner provided by the Department until the above sentence is fulfilled.

OCTOBER 15, 2002

ENTERED
TIME _____ AM
PM

OCT 15 2002

ENTER: 10/15/02

DMOHP009

PAGE: 0002

ILLINOIS DEPARTMENT OF CORRECTIONS -- OTS
HOUSING -- INMATE OCCUPANCY HISTORY INQUIRY8/ 8/ 7
09:14:40IDOC #: A81422 BENNETT, ALLEN
NON-SMOKING REQ: NO

BEG DTE: 1 1 07 END DTE: 8 8 07

-----FROM-----	---TO---	-LIVING UNIT-	NON SMOKE	REASON FOR MOVE
5 26 07 12:34:44	5 28 07	PNK R5 A 55	Y	ROUTINE
2 17 07 09:18:06	5 26 07	PNK R5 A 15	Y	ROUTINE
2 16 07 14:27:48	2 17 07	PNK H 01 03	Y	ROUTINE
2 16 07 14:13:10	2 16 07	PNK OU OU OU	Y	FURLOUGH
2 15 07 20:55:48	2 16 07	PNK H 01 03	Y	MEDICAL REASON
2 15 07 11:16:03	2 15 07	PNK H 01 01	N	ROUTINE
1 28 07 12:11:26	2 15 07	PNK R5 A 15	Y	ROUTINE
2 21 06 08:43:48	1 28 07	PNK R3 A 74	N	ROUTINE

NEXT KEY DATA: IDOC #: A81422 DTE BEG: 1 1 07 DTE END: 8 8 07

PF7: PAGE BACK PF8: PAGE FWD

INQUIRY COMPLETE

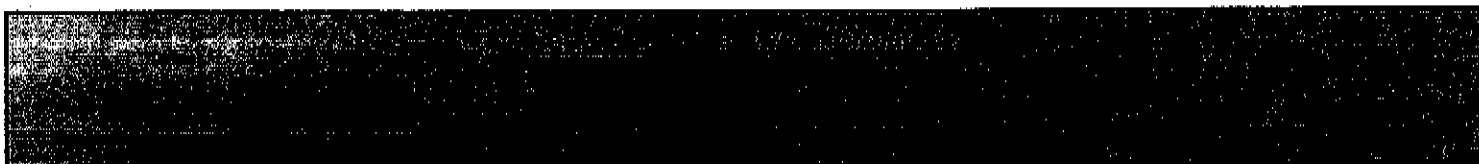
PLEASE ENTER NEXT KEY DATA

Exhibit ~~202~~ A~~202~~

2 of 2

ILLINOIS DEPARTMENT OF CORRECTIONS
Offender Disciplinary Report

Exhibit B
10F2



Procedures Applicable to all Hearings on Investigative and Disciplinary Reports

You have the right to appear and present a written or oral statement or explanation concerning the charges. You may present relevant physical material such as records or documents.

Procedures Applicable to Hearings Conducted by the Adjustment Committee on Disciplinary Reports

You may ask that witnesses be interviewed and, if necessary and relevant, they may be called to testify during your hearing. You may ask that witnesses be questioned along lines you suggest. You must indicate in advance of the hearing the witnesses you wish to have interviewed and specify what they could testify to by filling out the appropriate space on this form, tearing it off, and returning it to the Adjustment Committee. You may have staff assistance if you are unable to prepare a defense. You may request a reasonable extension of time to prepare for your hearing.

Offender's Signature

ID#

☐ Check if offender refused to sign

Serving Employee

Print Name

Badge #

Signature

☐ a.m.
☐ p.m.

Date Served

Time Served

☐ I hereby agree to waive 24-hour notice of charges prior to the disciplinary hearing.

Offender's Signature

ID#

ILLINOIS DEPARTMENT OF CORRECTIONS
Offender Disciplinary ReportPINCERNEYVILLE C. C.
Facility

Date: 01-28-07

Offender Information:

Offender Name: BENNETT, ALLEN

ID #: A81422

Offense Information:

Observation Date: 01-28-07

Approximate Time: 10:00

☒ a.m.
☐ p.m.

Location: INTERNAL AFFAIRS

Offense(s): DR 504: #630 INVESTIGATIVE STATUS

#301 Fighting

Summary of facts supporting violation: (NOTE: Each offense identified above must be substantiated.)

Inmate BENNETT, A81422, has been moved to the Segregation Unit and placed on Investigative Status, for the safety and security of the institution for his possible involvement in a fight

Witness(es):Witness NameWitness IDWitness Type (Staff/Offender/Visitor)

<u>Witness Name</u>	<u>Witness ID</u>	<u>Witness Type (Staff/Offender/Visitor)</u>

☐ Check if DOC 0318 is attached to describe additional facts, observations or witnesses.

Do not write below this line.

2-1
Date: 1-23-07
Committed Person: Allen Bennett
ID#: A-81441

Present Facility: Pinckneyville Correctional Center
Facility where grievance issue occurred: Pinckneyville Corr Ctr

NATURE OF GRIEVANCE:

☐ Personal Property ☐ Mail Handling ☐ Restoration of Good Time ☐ Disability
☒ Staff Conduct ☐ Dietary ☐ Medical Treatment ☒ Other (Specify)
☐ Transfer Denial by Facility ☐ Transfer Denial by Transfer Coordinator
☐ Disciplinary Report: _____ Date of Report: _____ Facility where issued: FEB - 2 2007

Note: Protective Custody Denials may be grieved immediately via the local administration on the protective custody issue notification.

Complete: Attach a copy of any pertinent document (such as a Disciplinary Report, Shakedown Record, etc.) and send to: _____
 Counselor, unless the issue involves discipline, is deemed an emergency, or is subject to direct review by the Administrative Review Board.
 Grievance Officer, only if the issue involves discipline at the present facility or issue not resolved by Counselor.
 Chief Administrative Officer, only if EMERGENCY grievance.
 Administrative Review Board, only if the issue involves transfer denial by the Transfer Coordinator, protective custody, involuntary administration of psychotropic drugs, issues from another facility except personal property issues, or issues not resolved by the Chief Administrative Officer.

Brief Summary of Grievance: Several days ago, I received a callie from B-4. From the very first day he arrived, he wanted to me that he takes medication for his Mental Health. After closely observing my cellie's behavior, I also learned that without his medication and other stimulants such as cigarettes and coffee, he becomes like a person suffering from Cognitive Dysfunction. Now this guy is out of cigarettes and coffee and because of it, his behavior has gotten much all of the snakes and then he'll claim someone. Now I just recently had a cellie prior before my present cellie that is also described as a "Bog". And there was also suspicion or every reason to be suspicious that this previous cellie of mine was a Confidential Informant. However, after

Relief Requested: I respectfully request to be placed on another unit and an investigation be conducted as to why individuals are transferred to my cell. Some are known to not have good relationship with cellie and then they

☐ Check only if this is an EMERGENCY grievance due to a substantial risk of imminent personal injury or other serious or irreparable harm to self.

Allen Bennett
Committed Person's Signature A-81441 ID# 1/23/07 Date

(Continue on reverse side if necessary)

Exhibit C
1063

Counselor's Response (if applicable)

Date Received: 1/25/07
☒ Send directly to Grievance Officer ☐ Outside jurisdiction of this facility. Send to Administrative Review Board, P.O. Box 10277, Springfield, IL 62763-0277

Response: Cell assignments are via the placement office and per Administration. Inmates cannot choose a cell mate. This unfortunately is a direct result of incarceration life.

Tracy L. Mauer
Print Counselor's Name Tracy L. Mauer II Counselor's Signature 1/25/07 Date of Response

EMERGENCY REVIEW

Date Received: 1/25/07
 Is this determined to be of an emergency nature?
☐ Yes; expedite emergency grievance
☐ No; an emergency is not substantiated. Committed person should submit this grievance in the normal manner.

Chief Administrative Officer's Signature _____ Date: _____

he was transferred to another cell, he told me that I would have problems with my first cellie. Now I have never had problems with none of my cellies, since I've been in the IDOC (Oct 2002). These two recent cellies are the only ones I had difficult time getting along with and both of them have Mental problems. ~~There~~ ^{There} both a piece of work to the bone. However, I can't help but to think as to whether these guys are planted here to start some problems for me. Because I can't see Jesus Christ having a positive relationship with any of them, not alone me. And I think most of the unit can back me up on this. It seems quite obvious that there an overzealous attempt to place me in a position for me to ~~be~~ receive disciplinary actions. And I certainly can't and will not be. Nevertheless, this would be 2 of the same type of ~~man~~ individuals with Mental problems. The odds ~~of~~ that happening is unlikely.

This is a College unit and I am not in College and will not be going because the program in Food Service, I completed in 1994 with 10 extra credit hours towards the Degree. Thus the only thing I am interested in Bensalem College is to complete the Food Service and receive a Degree in the Vocational course which is not offered. So why am I on this unit?

Relief because of their Mental Problems.

ILLINOIS DEPARTMENT OF CORRECTIONS
RESPONSE TO COMMITTED PERSON'S GRIEVANCE

Grievance Officer's Report

Date Received: 2-2-07

Date of Review: 2-9-07

Grievance # (optional): 2-9

Committed Person: Bennett, Allen

ID#: A81422

Nature of Grievance: Cell placement

Facts Reviewed: Grievant states his current cellie suffers from some type of mental disorder. Grievant claims his previous cellie also suffered from a mental disorder. Grievant believes staff placed both of these inmates in his cell to cause him problems. Grievant states he is currently housed on the college wing but is not enrolled in college.

Relief requested: moved to another wing, investigate why inmates with mental disorders are placed in his cell

Cell assignments are designated by the Placement Office.

OTS reflects that grievant is no longer housed in R3A74. He is currently in segregation (single celled).

Recommendation:

As grievant is no longer housed in R3A74, this issue should be considered moot.

T. Kigro CCII

Print Grievance Officer's Name

T. Kigro CCII

Grievance Officer's Signature

(Attach a copy of Committed Person's Grievance, including counselor's response if applicable)

Chief Administrative Officer's Response

Date Received: 2-9-07

☒ I concur☐ I do not concur☐ Remand

Comments:

Ken Bantley

Chief Administrative Officer's Signature

2-9-07

Date

Committed Person's Appeal To The Director

I am appealing the Chief Administrative Officer's decision to the Director. I understand this appeal must be submitted within 30 days after the date of the Chief Administrative Officer's decision to the Administrative Review Board, P.O. Box 19277, Springfield, IL 62794-9277. (Attach a complete copy of the original grievance, including the counselor's response, if applicable, and any pertinent documents.)

Allen Bennett

Committed Person's Signature

A81422

ID#

Date

Exhibit A C
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Illinois
Department of
Corrections

Rod R. Blagojevich
Governor

Roger E. Walker Jr.
Director

1301 Concordia Court / P.O. Box 19277 / Springfield, IL 62794-9277 / Telephone: (217) 522-2666 / TDD: (800) 526-0844

June 8, 2007

Allen Bennett
Register No. A81422
Pinckneyville Correctional Center

Dear Mr. Bennett:


This is in response to your grievance received on March 5, 2007, regarding Cell Assignment (Wants Different Cell or Cellie), which was alleged to have occurred at Pinckneyville Correctional Center. This office has determined the issue will be addressed without a formal hearing.

This office has reviewed your written grievance dated January 23, 2007 regarding the above request.

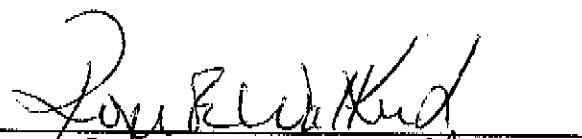
The Grievance officer's report (2-9) and subsequent recommendation dated February 9, 2007 and approval by the Chief Administrative Officer on February 9, 2007 have been reviewed.

Based on available information and in accordance with Department Rule 504.850, this office has determined that the grievance is without merit; therefore, no action will be taken; as these are administrative decisions.

FOR THE BOARD:

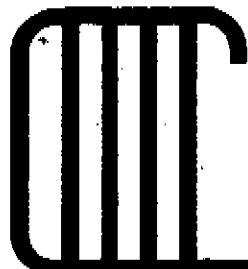

Sherry Benton
Administrative Review Board
Office of Inmate Issues

CONCURRED:


Roger E. Walker Jr.
Director

cc: Warden Yolande Johnson, Pinckneyville Correctional Center
Allen Bennett, Register No. A81422

Exhibit ~~N~~ C
3 of 3



Illinois
Department of
Corrections

Rod R. Blagojevich
Governor

Roger E. Walker Jr.
Director

Pinckneyville Correctional Center / 5835 State Route 154 / Pinckneyville, IL 62274-3410 / Telephone: (618) 357-9722 / TDD: (800) 526-0844

MEMORANDUM

DATE: February 16, 2007
TO: Offender Bennett, A81422
FROM: Sonny Barger, DON
SUBJECT: Letter

MAX AB 5A15
Sonny Barger

This is in response to your letter dated 2-6-07 received in the health care unit 2-7-07 wherein you complain that you should receive a tetanus injection after a hand injury. You also complain of dry skin and request vitamin D & E ointment.

Review of your medical chart shows you only had superficial abrasions of your hand. You were evaluated on nurse sick call on 2-14-07 and provided with hydro-cortisone cream for your skin.

If the problem with your skin persist advise the nurse on nurse sick call as the MD would have to order additional skin medication and the nurse can refer you to the MD if indicated.

SB:kc

cc: Medical File
File

~~AD-10~~
Exhibit ~~12~~ D
1 of 5



Illinois
Department of
Corrections

Rod R. Blagojevich
Governor

Roger E. Walker Jr.
Director

Pinckneyville Correctional Center / 5835 State Route 154 / Pinckneyville, IL 62274-3410 / Telephone: (618) 357-9722 / TDD: (800) 526-0844

MEMORANDUM

DATE: February 5, 2007

TO: Offender Bennett, A81422

FROM: Diana Hanner, DON

SUBJECT: Grievance

If your injuries are still bothering you then you must submit for nurse sick call. A nurse will come and assess your wounds at that time. If you need anything else please feel free to contact me.

DH:kc

cc: Counselor Hartman
Medical File
File

~~Exhibit No. 100~~
Exhibit No. 100

2 of 205

10F2

3-116

COMMITTED PERSON'S GRIEVANCE 1 of 3

Exhibit No 7

5415

3-116

Date: 3-17-07 Committed Person: Allen Bennett ID#: A81422

Present Facility: Pineknobville Corr. Ctr. Facility where grievance issue occurred: Pineknobville Corr. Ctr.

NATURE OF GRIEVANCE:

☐ Personal Property ☐ Mail Handling ☐ Restoration of Good Time ☐ Disability

☒ Staff Conduct ☐ Dietary ☒ Medical Treatment ☒ Other (specify): Process violation - Racial Discrimination, Arbitrary Actions

☐ Transfer Denial by Facility ☐ Transfer Denial by Transfer Coordinator

☒ Disciplinary Report: 2 3/17/07 Pineknobville Correctional Center

Date of Report: 3/17/07 Facility where issued: Pineknobville Correctional Center

Note: Protective Custody Denials may be grieved immediately via the local administration on the protective custody status notification.

Complete: Attach a copy of any pertinent document (such as a Disciplinary Report, Shutdown Record, etc.) and send to:

Counselor, unless the issue involves discipline. Is deemed an emergency, or is subject to direct review by the Administrative Review Board.

Grievance Officer, only if the issue involves discipline at the present facility or issue not resolved by Counselor.

Chief Administrative Officer, only if EMERGENCY grievance.

Administrative Review Board, only if the issue involves transfer denial by the Transfer Coordinator, protective custody, involuntary administration of psychotropic drugs, issues from another facility except personal property issues, or issues not resolved by the Chief Administrative Officer.

GRG OFFICE
PNKCC
MAR 23 2007

Brief Summary of Grievance: On 2-17-07, I received a falsely written disciplinary report by S. Sroka as a result of a fundamentally unfair investigation of a 321-Fighting to 102-Assaulting any person etc. etc. To begin with, the DR fundamentally states I assaulted inmate Agin on 1-26-07 at 10:00pm as a dispute about the light being on. It goes on to state that as a result, I allegedly beat (sic) Agin and that Agin had been scared to report the injuries to staff because I allegedly told him that if he did I would "get my boys on him". First of all, I do not have a TV or radio - Agin does have a TV. Therefore, I have no reason in the world to have the light off to be in total darkness at 10:00pm? Secondly, no African-American refer to himself or anyone else as "boys" in any form of speech. That term "boys" is offensive.

Relief Requested: I respectfully request that the Disciplinary Report be expunged and that an investigation be conducted regarding the misconduct of Inmate Affairs officials and S. Sroka for violation of my Civil Rights.

☐ Check only if this is an EMERGENCY grievance due to a substantial risk of imminent personal injury or other serious or irreparable harm to self.

Allen Bennett A81422 3/17/07

Committed Person's Signature ID# Date

(Continue on reverse side if necessary)

Counselor's Response (if applicable)

Date Received: 3/20/07 ☒ Send directly to Grievance Officer ☐ Outside jurisdiction of this facility. Send to Administrative Review Board, P.O. Box 19277, Springfield, IL 62704-9277

Response: Issue involves discipline. Send to grievance officer.

M. Hartman 3/20/07

Print Counselor's Name Counselor's Signature Date of Response

EMERGENCY REVIEW

Date Received: 3/1/07 Is this determined to be of an emergency nature?

☐ Yes: expedite emergency grievance

☐ No: an emergency is not substantiated. Committed person should submit this grievance in the normal manner.

_____ _____

Chief Administrative Officer's Signature Date

Exhibit D
3 of 8

COMMITTED PERSON'S GRIEVANCE (Continued)

is a self-evident speech of a racist ~~and~~ outside an African-American. So unless this was quite to mean "I am going to get some 'white boys' to get him it would be ~~be~~ racially correct but highly illogical. As we go further into this fraudulent DR, it states that I was seen by the ~~DR~~ HCU who reported that I had no injuries. On 2-15-07, I went on a Medical Unit to Kenosha Hall Hospital. I was examined by Dr. Thomas and nursing staff. There were reported injuries to my back, hand and right leg and ankle, consistent with a stabbed victim that has been untreated. According to Dr. Thomas, these injuries were impossible to be self-inflict and as a result of them being untreated, my joints were severely aggravated that there was serious swelling on my right leg and ankle. (Report was relayed under my consent to my Atty who was asked to be called as a witness at my Adv. Com. hearing timely. Com refused to call her.) In addition, DON Diane Tanner reviewed my injuries and in a letter dated 2-15-07 she indicated that if they are still bothering me, to submit a sick call slip. (See Attached App A. On top of that on 1-25-07, Counselor Mays responded to a grievance I submitted on 1-23-07 regarding my problems with Agin in the cell in which I requested to be moved because Agin was acting up in the cell trying to provoke me to fight him. (See Attached Grievance # 2-9 App B). In support of that grievance, I am attaching a response from Shirley Benton dated 10-30-06 to refer me for a cautional transfer ~~because~~ I did not understand why I was on a College wing? (See Attached App C and D). I was being set up as stated in my grievance before the incident. One also, I am nearly 50 years old and Agin is in his 30's. The cell is too congested for me to have an ^{advantage} over him based on size ~~advantage~~.

On 3-1-07, at my adjustment committee hearing, the committee failed to call my timely requested witnesses or review my evidence. In addition, the Committee was ~~not~~ not an impartial decision-making body based on this African-American. Remarks from the security staff made up as an Adjustment Committee because it promotes in this instance a racial sentiment rather than a constitutional one under the Procedural Due Process Clause. Also this committee has been historically in denying proper review including calling timely requested ~~witnesses~~ witnesses in previous adjudications with me. This time exculpatory evidence sent in my favor for proper review ~~and~~ at the time of my hearing and the Com. deliberately fail to ~~call~~ call them ~~or~~ or to review these evidence, clearly exhibits that this Committee was an improper decision-making body. In addition, the Committee decision was not an adequate written ~~decision~~ decision, ~~and~~ and arbitrarily failed to state the disposition of the charges and recommendation and reasons for the ~~disposition~~ pursuant to 20 Ill. Adm. Code (24.80(1)(2)(b), 24.80(1)(3)(a) and arbitrarily subjecting me to discipline that was not supported by "some evidence" 20 Ill. Adm. Code (24.80(1)(c). It should be noted that the DR was fraudulently selected against me immediately after another DR claimed I had no injuries.

(See attached App D - the next day) (Memo by another DR - Sanny Barger dated 9-16-07 - DR no. dated 2-17-07). This DR has made this arbitrary against me for discriminatory and racial reasons (Agin - white - me - African American) etc indicate this DR. No two DRs exist in the world. All the ~~DRs~~ DRs of the hospital report the same results.

Grievance Officer's Report

Date Received: 3-23-07

Date of Review: 3-30-07

Grievance # (optional): 3-116

Committed Person: Bennett, Allen

ID#: A81422

Nature of Grievance: Disciplinary report, staff conduct

Facts Reviewed: Inmate is grieving a disciplinary report written by C/O S. Sroka on 2-17-07 charging him with 102 Assault, 110 Impeding or Interfering with an Investigation, and 303 Giving False Information to an Employee. Grievant claims Internal Affairs did not properly investigate this incident. Grievant disputes the statements on the Adjustment Committee Summary related to him having no injuries as a result of the incident. Grievant states he had previously submitted a grievance regarding his problem with his cellie Agin. Grievant stated the Committee failed to interview his requested witnesses or to review his evidence. Grievant claims the Committee was not an impartial decision making body as the 2 members present were both African American female security staff. Grievant claims the Committee failed to state the disposition of the charges, their recommendations, and reasons for the sanctions.

Relief requested: expunge IDR, investigate the misconduct of Internal Affairs for violating his civil rights

Record of Proceedings: The IDR was read to inmate. Inmate pled not guilty stating, "He stabbed me with a paper clip. I was defending myself. I didn't have no choice but to beat him." The Adjustment Committee found inmate guilty of 102, 110, and 303 basing their decision on the IDR written by C/O Sroka which states he conducted an inquiry which revealed that inmate Bennett A81422 assaulted inmate Agin B20155 inside cell R3 A74 on 1/26/07. After the assault took place, Bennett attempted to mislead investigation alleging he had been stabbed and had injuries. On 1/28/07, inmate Agin B20155 was observed by staff having a laceration above his left eye to which Agin reported his cellie Bennett had assaulted him. At which time, Agin was assessed in Health Care Unit where he was treated for laceration above his eye, swelling along right side of face, abrasion under his nose having blood in his nostrils, scratches on his neck and arm. During an interview with Internal Affairs, Agin stated that Friday evening Bennett was upset about the cell light being on and proceeded to hit Agin. Bennett grabbed Agin and began hitting him numerous times, stopping Agin from alerting staff. Bennett told Agin if he (Agin) told staff, he (Bennett) would beat him again or Bennett would "have his boys get him." During an interview with Internal Affairs, Bennett stated that he and Agin had fought inside the cell. Bennett stated Agin punched him (Bennett) in the eye when the cell light was turned out. Bennett continued to state he (Bennett) punched Agin back when Agin began choking him (Bennett) until Bennett hit him (Agin) four or five more times. Bennett was taken to Health Care Unit where it was documented Bennett had no injuries to any part of his body except abrasions on his right hand knuckles. Bennett was placed in segregation on investigative status when he alleged Agin had stabbed him and that he needed medical treatment. A second interview was then conducted with Bennett who now stated that he and Agin had fought when Agin had stabbed him (Bennett) with a paperclip. Bennett continued to state that after

Recommendation:

Investigations are conducted as directed by Administration. I find the ticket to have been written and processed in accordance with DR504. After a total review of all information available, I find no violation of inmate's due process rights. The Adjustment Committee relied on sufficient evidence to be reasonably satisfied the inmate was guilty of the infraction. I recommend the grievance be denied.

T. Kisro CCII

Print Grievance Officer's Name

Grievance Officer's Signature

(Attach a copy of Committed Person's Grievance, including counselor's response if applicable)

Chief Administrative Officer's Response

Date Received: 4-3-07

☒ I concur☐ I do not concur☐ Remand

Comments:

Chief Administrative Officer's Signature

Date

Committed Person's Appeal To The Director

I am appealing the Chief Administrative Officer's decision to the Director. I understand this appeal must be submitted within 30 days after the date of the Chief Administrative Officer's decision to the Administrative Review Board, P.O. Box 18277, Springfield, IL 62794-9277. (Attach a complete copy of the original grievance, including the counselor's response, if applicable, and any pertinent documents.)

Committed Person's Signature

ID#

Date

Exhibit D
4 of 8

Agin allegedly stabbed him, he (Bennett) "beat Agin". Bennett was again examined by Health Care Staff and found no evidence of puncture wounds. A Confidential Source was interviewed by Internal Affairs who stated he could hear Bennett hollering at Agin and it sounded like Bennett was punching Agin. Source continued to state the punching stopped when Bennett began bragging at how he had "beat Agin", but shortly thereafter Bennett was again heard hitting Agin several more times. The name of the Confidential Source is being withheld for his safety and the safety and security of the institution. Reporting employee contacted by Adjustment Committee who stated the disciplinary report is truthful and the Confidential Source is reliable due to similarities of his statement to that of inmate Agin. Inmate's own partial admission of guilt stating "I didn't have no choice but to beat him." Inmate identified by state ID card. The Committee recommended 6 months C grade, 6 months segregation, and 6 months GCC revocation. The CAO approved. NOTE: Bennett has past history of (104) Dangerous Contraband (6 in. metal slat 1 in. wide), and multiple incidents of (206) Intimidation or Threats.

Grievant's injuries related to the alleged assault from inmate Agin will not be addressed here as this issue was previously addressed. Please refer to grievance #2-35.

This Grievance Officer found no violation of DR504 regarding the Committee members hearing grievant's IDR. Per DR504, the CAO shall appoint the Adjustment Committee which shall be composed of at least two members, which, for adult offenders, shall include one person representing the program staff (to the extent possible) and at least one being a minority staff.

PNK Adjustment Committee Chairperson Lt. C. Jordan stated the Committee did not receive a request for witnesses from grievant in a timely manner. Per DR504.80, prior to the hearing, the offender may request that witnesses be interviewed. The request shall be in writing on the space provided in the disciplinary report and shall include an explanation of what the witnesses would state. If the offender fails to make the request in a timely manner before the hearing, the individual may be granted a continuance for good cause shown. The Committee may disapprove witness requests that are not received prior to the hearing.

Chairperson Lt. Jordan stated the Committee conducts fair and impartial hearings with strict adherence to DR504. Their recommendations to the warden are made after careful consideration of the facts reviewed.

Grievant's allegations that the Committee failed to stated the disposition of charges, their recommendation, and reasons for sanctions is not verified. This information is clearly included in the Adjustment Committee Summary. The Summary was sent to grievant on 3-14-07.

This Grievance Officer recommends denial of grievant's request for an investigation into this incident. An investigation has already been conducted. The investigation resulted in the disciplinary report being grieved here.

Exhibit ~~1000~~
C
~~1000~~ ~~1000~~
S o F B

ILLINOIS DEPARTMENT OF CORRECTIONS
OFFENDER'S GRIEVANCE

5-40

Date: 5-6-07 Offender: (Please Print) Allen Bennett ID#: A-81442

Present Facility: Pinckneyville Corr. Ctr. Facility where grievance issue occurred: Pinckneyville Corr. Ctr.

NATURE OF GRIEVANCE

☐ Personal Property ☐ Mail Handling ☐ Restoration of Good Time ☐ Disability

☒ Staff Conduct ☐ Dietary ☒ Medical Treatment ☐ HIPAA

☐ Transfer Denial by Facility ☐ Transfer Denial by Transfer Coordinator ☒ Other (specify): Denial of Medical Treatment

☐ Disciplinary Report ☐ Date of Report: Facility where issued: Annual of Eugene and Justice

Note: Protective Custody Denials may be grieved immediately via the local administration on the protective custody status notification.

Complete: Attach a copy of any grievance document (e.g., a Disciplinary Report, Shakedown Record, etc.) and send to: Counselor, unless the issue involves discipline, is deemed an emergency, or is subject to direct review by the Administrative Review Board. Grievance Officer, only if the issue involves discipline at the present facility or issue not resolved by Counselor. Chief Administrative Officer, only if EMERGENCY grievance. Administrative Review Board, only if the issue involves transfer denial by the Transfer Coordinator, protective custody, involuntary administration of psychotropic drugs, issues from another facility except personal property issues, or issues not resolved by the Chief Administrative Officer.

Brief Summary of Grievance: Several days ago I was put in to see the Doctor by Nurse Boyd on the 7-3 shift. Today (5-6-07) the Doctor was here in segregation. Many inmates on the unit was told and called on their cell lines. One of them was called much later than the time I was put in to see the Doctor. However, I was never called and I was told that I was not on the list. I have untreated injuries that has worsen for more than 3 months causing swelling to my right leg and ankle. There is also marks that are blown as a result of the injuries. All in all, these untreated injuries are worsen by the day and I am

Relief Requested: I respectfully request to be seen by a Doctor and an investigation be conducted into the practice of racial discrimination by staff here at the Pinckneyville Correctional by outside sources.

☒ Check only if this is an EMERGENCY grievance due to a substantial risk of imminent personal injury or other serious or irreparable harm to self.

Offender's Signature: A-81442 Date: 5.6.07

(Continue on reverse side if necessary)

Counselor's Response (if applicable)

Date Received: ☐ Send directly to Grievance Officer ☐ Outside jurisdiction of this facility. Send to Administrative Review Board, P.O. Box 19277, Springfield, IL 62794-9277

Response:

Print Counselor's Name: Counselor's Signature: Date of Response:

EMERGENCY REVIEW

Date Received: 5.8.07 Is this determined to be of an emergency nature? ☒ Yes; expedite emergency grievance ☐ No; an emergency is not substantiated. Offender should submit this grievance in the normal manner.

Chief Administrative Officer's Signature: Date: 5.9.07

Exhibit C
6 of 8

ILLINOIS DEPARTMENT OF CORRECTIONS
OFFENDER'S GRIEVANCE (Continued)

constantly losing weight from 244 to 222 since I've been in segregation. And I am in pain. It seems to me that I am seeing medical staff who are clearly turning their backs on my injuries and arbitrarily denying me medical treatment. My injuries are stab wounds as a result of a fight. Because I am an African-American involved in a fight with a Caucasian, I received a ~~racially~~ racially discriminatory DR that prejudged itself with information that clearly suggest that credibility was given to the Caucasian inmate over an African-American inmate based on race. (See DR dated 2-17-07) As a result, my injuries are being hidden by both medical staff and I.A. to support fraudulent Disciplinary Action. I received based upon ~~racially~~ racially discriminatory reasons.

In addition, I am being denied hygiene assistance when it is clear that I am indigent and is capable to be for my entire incarceration. I received no monthly supply of hygiene assistance for the month of April, 2007 and I do not have toothpaste and soap for use. Hygiene bags contain minimally per month of 2 bars of toothpaste and 2 bars of soap with other items.

Respectfully and request that I receive my monthly supply of hygiene items for the month of April and May.



ILLINOIS DEPARTMENT OF CORRECTIONS
RESPONSE TO COMMITTED PERSON'S GRIEVANCE

Exhibit 1000

Grievance Officer's Report

3

Date Received: 5-10-07

Date of Review: 5-18-07

Grievance # (optional): 5-40

Committed Person: Bennett, Allen

ID#: A81422

Nature of Grievance: Medical; sanitation

Facts Reviewed: The CAO has determined this grievance to be of an emergency nature; therefore it is being processed as such.

Grievant states Nurse Boyd submitted him to see the doctor. Grievant states on 5-6-07, the doctor was in segregation seeing inmates. Grievant states he was not seen and was informed he was not on the list to be seen. Grievant claims to have injuries which have gone untreated for months. Grievant claims his right leg and ankle are swollen, and he is losing weight. Grievant claims his injuries were the result of an altercation between himself and a Caucasian inmate. Grievant claims he was stabbed by the other inmate, but his injuries are being hidden by medical staff and Internal Affairs. Grievant claims he was issued a fraudulent disciplinary report because he is African American. Grievant claims this is racial discrimination. Grievant claims his untreated injuries are worsening by the day. Grievant claims he is also being denied hygiene items even though he is indigent.

Relief requested: to be seen by a doctor; investigation by outside sources into the practice of racial discrimination; to be given a monthly supply of hygiene products

Grievant's allegations that he was issued a fabricated disciplinary report will not be addressed here as this issue was addressed in grievance #3-116.

Regarding grievant's allegations that he is being denied hygiene items, Clothing Room Supervisor P. Rensing stated that grievant is on the list to be issued an indigent hygiene bag once every 30 days. Grievant was issued an indigent hygiene bag on the following dates: 1-31-07, 2-21-07, 3-21-07, 4-21-07. Grievant is scheduled to receive a hygiene bag again on 5-21-07. The hygiene bag includes the following items: 2 large bars of soap, 2 small deodorants, 2 tubes of toothpaste, and 1 toothbrush. It has been PNK practice to issue indigent hygiene bag once every 30 days. PNK Administration has determined which items shall be included in the bags.

Records reflect that the incident grievant alleges resulted in his injuries occurred on or about 2-17-07. Per Director of Nurses N. Beatty, on 4-9-07, grievant was seen on nurse sick call. On 4-10-07, grievant was evaluated/treated by the physician's assistant for his right leg complaints. Grievant was instructed to follow up with nurse sick call as needed. On 4-21-07, grievant refused to be seen on nurse sick call after submitting a request for same. On 4-24-07, grievant was seen on nurse sick call and referred to the physician's assistant.

Recommendation:

I find that staff is following established procedures regarding issuance of hygiene items to indigent inmates. I find that grievant's medical concerns are being addressed by health care staff. I recommend denial of grievance.

T. Kisro CCII

Print Grievance Officer's Name

P. Kisro CCII

Grievance Officer's Signature

(Attach a copy of Committed Person's Grievance, including counselor's response if applicable)

Chief Administrative Officer's Response

Date Received: 5-18-07

☒ I concur☐ I do not concur☐ Remand

Comments:

Y. D. Johnson

Chief Administrative Officer's Signature

5-18-07

Date

Committed Person's Appeal To The Director

I am appealing the Chief Administrative Officer's decision to the Director. I understand this appeal must be submitted within 30 days after the date of the Chief Administrative Officer's decision to the Administrative Review Board, P.O. Box 19277, Springfield, IL 62794-9277. (Attach a complete copy of the original grievance, including the counselor's response, if applicable, and any pertinent documents.)

Allen Bennett

Committed Person's Signature

A81422

ID#

5-22-07

Date

Exhibit 7 of 8

ILLINOIS DEPARTMENT OF CORRECTIONS
RESPONSE TO COMMITTED PERSON'S GRIEVANCE (Continued)

On 5-2-07, grievant was scheduled to see the physician's assistant but refused. On 5-3-07, grievant requested to be scheduled on the next physician's line citing complaints to the nurse that he does not like the physician's assistant. On 5-4-07, during nurse sick call, grievant asked the nurse to schedule him to see the physician rather than the physician's assistant. The complaints cited by the grievant on this nurse sick call visit were unrelated to the issue he grieves here. In order to expedite treatment, the nursing staff at PNK refers inmates to the next available provider on site. There are limited physician appointments available. The decision to schedule inmates to see the physician's assistant rather than the physician is based solely on the condition presented by the inmate. Scheduling of same is not practiced in a discriminatory fashion. On 5-13-07 at 12:30 p.m., grievant was evaluated by Dr. Larson. Dr. Larson found no right leg edema at the time of this evaluation. Dr. Larson instructed grievant to advise health care staff of his need for evaluation when the leg/ankle is swelling. Dr. Larson assessed the areas on grievant's back and documented his findings. Grievant will be scheduled for a follow up appointment approximately 4 weeks from this evaluation.

Exhibit 1.7 ~~100~~ C

7

8 of 8

Exhibit ~~ME~~ E

1 of 3

ILLINOIS DEPARTMENT OF CORRECTIONS
Offender Disciplinary Report**Procedures Applicable to all Hearings on Investigative and Disciplinary Reports**

You have the right to appear and present a written or oral statement or explanation concerning the charges. You may present relevant physical material such as records or documents.

Procedures Applicable to Hearings Conducted by the Adjustment Committee on Disciplinary Reports

You may ask that witnesses be interviewed and, if necessary and relevant, they may be called to testify during your hearing. You may ask that witnesses be questioned along lines you suggest. You must indicate in advance of the hearing the witnesses you wish to have interviewed and specify what they could testify to by filling out the appropriate space on this form, tearing it off, and returning it to the Adjustment Committee. You may have staff assistance if you are unable to prepare a defense. You may request a reasonable extension of time to prepare for your hearing.

Offender's Signature_____
ID#☐ Check if offender refused to sign**Serving Employee**_____
Print Name_____
Badge #_____
Signature☒ a.m.
☐ p.m._____
Date Served_____
Time Served☐ I hereby agree to waive 24-hour notice of charges prior to the disciplinary hearing._____
Offender's Signature_____
ID#

ILLINOIS DEPARTMENT OF CORRECTIONS

Offender Disciplinary Report

PINCKNEYVILLE C. C.

Facility

Date: 02-17-07

Offender Information:Offender Name: BENNETT, ALLENID #: A81422**Offense Information:**Observation Date: 01-28-07Approximate Time: 8:40☒ a.m.
☐ p.m.Location: R3-A-wing**Offense(s): DR 504:**

#102 Assaulting Any Person

#110 Impeding or Interfering with an Investigation

#303 Giving False Information to an Employee

Summary of facts supporting violation: (NOTE: Each offense identified above must be substantiated.)

Internal Affairs has conducted an investigation which has concluded that on 01-26-07, at approximately 10:00 p.m., inmate BENNETT, A81422, assaulted inmate AGIN, SHANNON B20155, inside cell 3-A-74 and then attempted to mislead the investigation by reporting nonexistent injuries and alleged to have been stabbed by AGIN. The investigation revealed that on 01-28-07, at approximately 8:40 a.m., staff in R3 noticed a laceration above AGIN'S left eye and the area was swollen. AGIN was removed from the cell and AGIN alleged that his cellmate, BENNETT, had assaulted him. AGIN was examined in the HCU with noted injuries of the laceration above the left eye with swelling around the eye, swelling along the right side of the face, an abrasion under the nose with blood in the nostrils, scratches on the neck, and scratches on the right arm. During an interview with Internal Affairs, AGIN stated that on Friday, 01-26-07, after the evening med line, BENNETT was upset about the cell light being on and hit him. AGIN stated that he attempted to alert staff but BENNETT grabbed him and started hitting him again. AGIN stated that he did not know how many times he was hit. AGIN stated that one of the medications he takes is for a mental condition and he gets "foggy" after taking it. (continued on next page)

Witness(es):Witness NameWitness IDWitness Type (Staff/Offender/Visitor)

☐ Check if DOC 0318 is attached to describe additional facts, observations or witnesses.

Do not write below this line.

Offender Disciplinary Continuation Page

3 of 3

Pinckneyville CC

Facility

☒ Disciplinary Report ☐ Investigative Report ☐ Disciplinary Summary ☐ Adjustment Committee Summary

Report/Incident Date: 01-28-07

Incident # (if applicable):

Use the space below to provide any additional information.

AGIN stated that after BENNETT let him up, BENNETT told him that if he (AGIN) told staff, BENNETT would beat him again or BENNETT would "have his boys get him". AGIN stated that he remained in the cell and was too scared to report the assault.

During an interview with Internal Affairs, BENNETT stated that he and AGIN had been fighting in the cell. BENNETT stated that AGIN got angry when he (BENNETT) turned the light out and punched him in the eye. BENNETT stated that he hit AGIN back and AGIN then grabbed him in a choke hold. BENNETT stated that AGIN was very strong and was choking him and that he had to hit AGIN four (4) or five (5) more times to get AGIN to stop choking him.

BENNETT was examined in the HCU and no evident injuries were noted other than abrasions on the knuckles of his right hand. No redness, bruising, or swelling was visible on BENNETT'S face or neck.

After being placed in Segregation on Investigative Status, BENNETT alleged that he had been stabbed by AGIN and needed medical attention. BENNETT was interviewed again by Internal Affairs and during that interview he stated that on Thursday, 01-25-07, he and AGIN had a fight and that during the fight, AGIN stabbed him with what he thought was a paper clip. BENNETT stated that after AGIN stabbed him, he "beat AGIN". BENNETT stated that he remained in the cell with AGIN after being stabbed and did not have a chance to report it until now (01-28-07). Medical staff examined BENNETT and found no evidence of puncture wounds as alleged by BENNETT.

During the investigation, information was received from a Confidential Source (CS) that had reported reliable information previously. The identity of the CS is being withheld for the safety and security of the institution as well as the CS. The CS stated that he could hear BENNETT hollering at AGIN and that it sounded like BENNETT was punching AGIN. The CS stated that the punching stopped for a while and that BENNETT then bragged at how he had "beat AGIN". The CS stated after a short period, he could hear BENNETT hit AGIN several more times.

The incident occurred inside the cell and was not visible to anyone else, however; Internal Affairs concluded that AGIN was assaulted based on his injuries and that his statement was consistent with what the CS reported hearing. BENNETT gave two (2) different statements and allegations, neither of which are substantiated by physical evidence of injury. Internal Affairs also notes that BENNETT is physically larger than AGIN and that AGIN'S claim that his physical and mental functioning is diminished after taking his medication, has been verified through medical staff in the HCU. Inmate BENNETT, ALLEN A81422, has been identified with his inmate photo ID.

AFFIDAVIT OF SERVICE

I, Allen Bennett, state that I served a copy of the document to which this affidavit is attached upon each party, or, if represented by counsel, upon the attorney of record for said party (ies) by enclosing the same in a sealed envelope plainly addressed as is disclosed by the pleadings of record herein and by depositing each of such envelopes in the box designated for United States mail at _____ Correctional Center, _____ Illinois, together with the appropriate request to the prison official responsible to affix fully prepaid thereon, on this _____ day of _____, 20 07.

Signature

VERIFICATION

I, Allen Bennett, the undersigned, certify and state that:

1. I am the (Petitioner/Respondent) in the above captioned legal matter.
2. I have read the foregoing application and have knowledge of its contents; and
3. **Under penalties as provided by law pursuant to 735 ILCS 5/1-109, I certify that the statements set forth in the foregoing motion and this affidavit are true and correct except as to matters therein stated to be on information and belief, and as to such matters I certify that I believe the same to be true.**

(Your signature)